

## Chapter 2.74

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**2.74.010 Purpose.**

A. — ~~A.~~ The general purpose of this chapter is to provide for citizen participation in reviewing Police Department policies, practices and procedures and to provide a prompt, impartial and fair investigation of complaints brought by individuals against police officers or the Police Department, police officers upon whom a complaint has been brought and employees of the Police Department and in doing

so, to provide a review of Police Department policies, practices and procedures.

B. The City Manager shall appoint seven Cambridge residents to the Police Review and Advisory Board. In making appointments, the City Manager shall choose at least one representative from each of the five sections of the City known as:

1. Cambridgeport/Riverside Section;
2. Eastern Section;
3. Northern Section;
4. Mid-Cambridge Section; and
5. Western Section.

C. The sections of the City set out in subsection B of this section, for purposes of selection to the Board, shall be defined by the City Council.

D. The City Manager shall make every effort to insure that individuals appointed to the Board, fairly and accurately represent the City's racial, social and economic composition. (Ord. 1018 (part), 1984: prior code Ch.15 Art. 4 § 1)

**2.74.020 Established--Composition.**

A. There shall be a seven~~five~~-member City of Cambridge Police Review and Advisory Board (the "Board"). Members of the Board shall be appointed by the City Manager. Prior to appointing any member to the Board, the City Manager shall seek qualified candidates by advertising in the local newspapers for individuals who desire appointment to the Board. The term of membership on the Board shall be~~is~~ five years. No person may serve consecutive terms as a member of the Board. The

City Manager may remove members of the Board only for cause as defined in the City Charter. All members of the Board shall be residents of the City.

B. The members of the Board and its staff shall not hold any other position for the City while he or she is a member of the Board or staff.

C. No member of a City employee's immediate family (husband, wife, brother, sister, son or daughter) shall be appointed to, or hired by the Board.

D. No staff or member of the Board shall have been an employee of the City within two years of his or her appointment to, or hiring by the Board, and no member of such person's immediate family shall be appointed to, or hired by the Board.

E. The Board shall elect a Chairperson annually. The Board shall meet at the call of its Chairperson, but shall meet at least once a month. Meetings of the Board shall be open to the public except when the Board, in its discretion, meets in executive session in private. All meetings of the Board shall be conducted in accordance with the open meeting laws of the Commonwealth.

F. Members of the Board shall not receive compensation for services but shall receive reasonable expenses and fees incurred as a result of their membership on the Board. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 2).

## 2.74.030 Officers and sStaff.

A. Executive Secretary-Director for to the Board.

The Board shall recommend, and the City Manager shall appoint, an Executive Secretary-Director. The Executive Secretary-Director shall be responsible for the daily administration of the Board. The Executive Secretary's Director's terms and conditions of employment shall be fixed by the City Manager-Board. The Executive Secretary-Director ~~to-for~~ the Board shall, with the consent and approval of the Board, make recommendations to the City Manager for the ~~be empowered to~~ hiring of clerical help when needed.

B. Investigative Staff.

1. The Board shall also make recommendations to the City Manager for the appointment of a Board Investigator if it is deemeds necessary and such additional staff of investigators as it deems necessary. The terms and conditions of employment for such Board Investigator shall be recommended~~fixed~~ by the Board and fixed by the City Manager, but the salary of the Board Investigator shall be equivalent to that received by investigators of similar Boards of Investigation.

2. The Board Investigator shall not have been an employee or elective or appointive officer of the City within two~~three~~ years prior to appointment. The terms and conditions of employment for all other investigative staff shall be recommended~~fixed~~ by the Board and fixed by the City Manager. All Board investigators must possess skills and

experience necessary for investigative work.

C. Appointment of a Fact Finder.

1. In the event that the Board votes to refer a complaint to a full hearing pursuant to §2.74.070, infra, the Board may recommend to the City Manager that a fact finder be appointed by the City Manager to hear the matter. The fact finder shall be an attorney and shall have and exercise all the powers and responsibilities of the Board to conduct such a hearing. The costs of the fact finder shall be borne by the City.

2. After a hearing, the fact finder shall, within 30 days, submit findings of fact to the Board.

DC. Other Staff. The Board, from time to time, may recommend to the City Manager the creation of a contract, in accordance with existing regulations and law, for such additional staff as is necessary to carry out its duties.

E. In situations where real or apparent conflicts of interests arise, the Board shall have the power to retain independent, legal counsel.

DE. All members of the staff are shall be under the direction of the Board. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 4).

**2.74.040 Duties of the Board and City Manager.**

The Board shall have the following duties:

A. The Chief of Police in consultation with the Board, shall establish policies, rules and regulations for the Police Department (the "Department");

B. The Board and the City Council shall review the Department budget before it is submitted to the City Manager;

AC. The Board shall receive and resolve, as provided in Sections 2.74.0680 and 2.74.0790 of this chapter, any complaint concerning the operation of the Police Department;

BD. The Board shall make recommendations to the Chief of Police and/or the City Manager in matters concerning, 1) the discipline of employees of the Police Department, and/or 2) the improvement of Police Department policies, practices and procedures;

CE. The Board shall make quarterly reports to the City Manager, the Mayor, City Council and to the public, of the Board's Department's activities during the previous year, including the handling of complaints, and of future plans. The final disposition of complaints shall be made public, consistent with the requirements of state law;

D. The City Manager shall, within 3090 days, accept, reject, or modify the Board's findings/recommendations. The City Manager shall provide to the Board, in writing, either an action plan for the implementation of recommendations or reasons supporting a decision to reject or modify the Board's

findings/recommendations. If the City Manager requires more than 90 days, the City Manager shall provide a written reason and a timeline for accepting, rejecting or modifying the Board's findings/recommendations.

E. F. The Board, with the assistance and approval of the City Solicitor, shall have the power to subpoena witnesses, administer oaths, take testimony and require the production of evidence. The Board, through with the assistance office of the City Solicitor or independent counsel pursuant to 2.74.030E, shall apply to the appropriate court to enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order. The Board shall have, and may delegate in writing to a member of its staff, the powers to administer oaths and take testimony. A delegation is revocable at the will of the Board and does not prevent exercise of any power by the Board. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 3).

#### **2.74.050 Chief of Police--Duties.**

The Chief of Police shall administer the Department pursuant to existing laws, and the rules and regulations of the Department and the State civil service rules and regulations. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 5).

#### **2.74.0560 Special mMeetings.**

Special meetings may be called by the Executive Secretary-Director or by fourthree members of the Board, upon personal notice being given to all members of the Board, or written notice

being mailed to each member and Board members must received notice at least forty-eight48 hours prior to such meeting, unless such notice is waived by such members. Special meetings shall be posted in accordance with the open meeting law. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 10).

#### **2.74.070 Discipline.**

A. Manual. The Chief of Police, in consultation with the Board, shall adopt a manual of rules, regulations and procedures for the Department. The manual shall defined categories of major and minor offenses and shall set forth the maximum and minimum penalties for each offense. The offenses and penalties shall not be defined in a manner that is inconsistent with existing civil service laws.

B. Summary Discipline. The Chief of Police may implement summary discipline for a minor offense.

C. General Discipline. The Chief of Police shall recommend to the City Manager the discharge or indefinite suspension of any employee of the Department for a major offense. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 6).

#### **2.74.0680 Initiation and Investigation of Complaints.**

##### A. Initiation of Complaints.

1. A complaint by a member of the public, hereinafter referred to as "a civilian complaint," or any police officer or civilian employee concerning the Department may be

- filed either with the Police Department or the Board.
2. A complaint may be filed directly with the Board up to 60 days from the date of the occurrence of the incident complained of.
  3. The Board may, at its discretion, investigate and hear complaints filed after the 60 day period has expired.
  4. The filing of a complaint, the failure to file a complaint, or the dismissal of the complaint by the Board shall not bar the complainant from seeking relief in any other administrative or judicial form.
  5. Complaints concerning the Police Department and filed with the Police Department shall be forwarded immediately to the Board's Director Secretary. Copies of the complaint shall be made available to each member of the Board, the Board Investigator and the Chief of Police Commissioner.
  6. The Chief of Police Commissioner shall investigate such a complaint immediately and file a report of findings with the Board within thirty 30 days.
  7. Complaints concerning the Police Department and filed with the Board shall be investigated immediately by the Board. Copies of the complaint shall be made available to the Chief of Police Commissioner.

B. Preliminary Investigation of Complaints Filed with the Board.

1. Upon receipt of a complaint filed with the Board, tThe Board shall immediately order a preliminary investigation by its investigative staff. The purpose of such preliminary investigation shall be to determine if there is sufficient

evidence to warrant a full investigation of the allegations contained within the complaint by the Board. The preliminary investigation shall be completed within ~~ten~~ 10 business days, unless for cause a member of the Board extends such time. No preliminary investigation shall be extended for more than ~~thirty~~ 30 days. After completion of such preliminary investigation, the Board shall either order a full investigation if sufficient evidence exists to warrant same or if sufficient evidence does not exist to warrant same, summarily dismiss the complaint.

2. Categories of misconduct subject to investigation by the Board shall include, but not be limited to: excessive force, discourtesy, improper stop/search/seizure/arrest, improper detention procedures, improper investigation or police report, discrimination, harassment, improper traffic citation or police tow, failure to follow approved Police Department policy, criminal misconduct and abuse of discretion.
3. B. In addition to the above, the Board may also cause to be preliminarily investigated any complaint concerning any allegation of wrongdoing, injustice, or pattern of injustice within the Police Department, and in conjunction therewith may review and make recommendations regarding the Department or its rules and regulations.

C. Public Access to Board Records.

The Board's Secretary Director shall keep a public docket of complaints and the disposition of each complaint after investigation. All documents and information retained or discovered by the Board, including: the identities of complainant and respondent, the initial complaint, the docket, and transcripts of hearings, shall be public documents and shall be available for inspection by all parties and the public.

D. Dismissal After Preliminary Investigation.

The Board shall issue a written response to all complaints whenever a complaint is dismissed after the preliminary investigation, and it shall deliver a copy of its response and/or findings to all parties. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 7).

2.74.0790 Hearings Resolution of complaints.

A.—If a complaint is not resolved as a result of investigation to the satisfaction of the complainant, the respondent employee, or a member of the Board, either the complainant, the respondent employee or the Board member may request the full Board to hear or review the matter. The Board may, at its option, when it determines that a hearing or review is warranted by the evidence, hear or review the matter itself or refer the matter to a fact finder. A representative of the City Solicitor's office shall be present at any hearing before the Board or recommend that the City Manager appoint a fact finder.

B. ~~The fact finder shall be an attorney and, in the conduct of the~~

~~hearing, may with the assistance and approval of the City Solicitor, subpoena witnesses, administer oaths, take testimony and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the fact finder shall apply to the appropriate court. The costs of the fact finder shall be borne by the City.~~

C. ~~After a hearing, the fact finder shall, within thirty days, submit findings of fact to the Board. The Board, upon receipt of the report of the fact finder, if any, shall within thirty days recommend to the City Manager any discipline to be imposed. Any report or action involving a civilian complaint shall be made public.~~

2.74.080 Rights of Employees.

D.—Any employee against whom a complaint is filed is presumed innocent and shall not forfeit any pay or seniority rights pending final action by the Board, and final action by the appointing authority regarding any recommended discipline, except with the concurrence of four members of the Board.

2.74.090 Public Hearings.

A. All hearings of the Board shall be held consistent with the open meeting law.

B. All records of the Board shall be maintained consistent with the public records law, G.L. c. 66, §10. Notwithstanding any contrary provision

of law, the intent of this Ordinance is that the documents described in Section 2.74.060(c) shall not be considered to be a part of the personnel files of any Cambridge employee, and therefore exempt from disclosure under the public records law pursuant to G.L.c.4, §7, twenty-sixth (c). All pleadings filed and all hearings before the Board and the fact finder which involve a civilian complaint shall be public.

~~C. The parties to any hearing are the complainant and the respondent employee. Each party has a right to counsel. The complainant's party's case may be presented by the complainant party or complainant's party's counsel. Any probative evidence may be admitted. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 8).~~

#### ~~2.74.100 Hiring and promotions.~~

~~A. Entry into employment with the Department as a police officer is by appointment of the City Manager, in accordance with the rules, regulations and procedures of the Department and the Commonwealth's civil service laws.~~

~~B. Promotions shall be made on the basis of training, experience, education and competitive examinations, all in accordance with existing law. The City Manager shall make all promotions within the Department. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 § 9).~~

#### **2.74.1010 Hearing by petition.**

On the written petition of ~~fifty~~ 50 or more residents of the City, filed with the Board, the Board shall hold a special

hearing for the purpose of responding to such petition. Hearings under this section shall not be used to investigate complaints against particular individual police officers, nor as a procedure for rehearing complaints already resolved by the Board. Hearings under this section shall be used to review matters of general import throughout the City relating to Police Department policies or activities. The Board shall have discretion to determine if a petition properly invokes the provisions of this section. Copies of the petition shall be delivered to the City Manager, City Clerk and the City Council. Notice of such hearing shall be given in the same manner as provided for other hearings of the Board. The Board shall conduct such hearing upon the subject matter of the petition within ~~thirty~~ 30 days of the filing of such petition with the Board. (Ord. 1018 (part), 1984: prior code Ch. 15 Art. 4 §11).